

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL BENANTI,

Petitioner,

v.

A. CIOLLI,

Respondent.

No. 1:20-cv-00537-AWI-SKO (HC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS (Doc. No. 6)**

**ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS**

**ORDER DIRECTING CLERK OF COURT
TO JUDGMENT AND CLOSE CASE**

**[NO CERTIFICATE OF APPEALABILITY
IS REQUIRED]**

Petitioner is a federal prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On May 6, 2020, the Magistrate Judge assigned to the case issued Findings and Recommendation to dismiss the petition for failure to state a claim. (Doc. No. 6.) This Findings and Recommendation was served upon all parties and contained notice that any objections were to be filed within twenty-one (21) days from the date of service of that order. On June 2, 2020, Petitioner filed objections to the Magistrate Judge's Findings and Recommendations. (Doc. No. 7.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's

1 objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is
2 supported by the record and proper analysis. The Court agrees that the due process requirements
3 as delineated by *Wolff v. McDonnell*, 418 U.S. 539, 555 (1974), were met in this case.

4 Petitioner's objections present no grounds for questioning the Magistrate Judge's analysis.

5 In the event an appeal is filed, a certificate of appealability will not be required insofar as
6 this is an order dismissing a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, not a
7 final order in a habeas proceeding in which the detention complained of arises out of process
8 issued by a State court. *Forde v. U.S. Parole Commission*, 114 F.3d 878 (9th Cir. 1997); *see Ojo*
9 *v. INS*, 106 F.3d 680, 681-682 (5th Cir. 1997); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir.
10 1996).

11 Accordingly, the Court orders as follows:

- 12 1. The Findings and Recommendations, filed May 6, 2020 (Doc. No. 6), is
13 ADOPTED IN FULL;
- 14 2. The petition for writ of habeas corpus is DISMISSED WITH PREJUDICE;
- 15 3. The Clerk of Court is directed to ENTER JUDGMENT AND CLOSE THE CASE;
16 and,
- 17 4. In the event an appeal is filed, a certificate of appealability will not be required.

18 This order terminates the action in its entirety.

19 IT IS SO ORDERED.

20 Dated: December 15, 2020


21 SENIOR DISTRICT JUDGE
22
23
24
25
26
27
28